



## *Report to the Auburn City Council*

Action Item
Agenda Item No. <b>9</b>
City Manager's Approval

**To:** Honorable Mayor and City Council Members  
**From:** Michael G. Colantuono, City Attorney  
**Date:** June 11, 2012  
**Subject:** Amendment of City Ordinance Governing Claims Against the City – First Reading

### *The Issue*

Shall the City Council adopt an Ordinance to update the City's claiming ordinances by amending Section 33.115 of the City of Auburn Municipal Code regarding claims against the City?

### *Conclusions and Recommendations*

Waive full reading and introduce an ordinance to amend Section 33.115 of the Auburn Municipal Code regarding claims against the City.

### *Background*

The California Supreme Court recently decided *Ardon v. City of Los Angeles* regarding claiming procedures and there is now some uncertainty as to the scope of power the Government Claims Act gives the City to provide claiming procedures. In light of *Ardon*, however, I recommend this amendment to clarify that the City's claiming requirements are authorized not only by the Government Claims Act, but by the California Constitution and other law.

### *Alternatives Available to Council; Implications of Alternatives*

1. Adopt an Ordinance amending Section 33.115 of the City of Auburn Municipal Code regarding claims against the City.
2. Do not adopt an Ordinance amending Section 33.115 of the City of Auburn Municipal Code regarding claims against the City. This action could expose the City to liabilities which would otherwise be avoided by limiting the City's claiming procedures to those authorized by the Government Claims Act.

**Fiscal Impact**

The resources to prepare this ordinance and staff report are budgeted. To the extent this amendment preserves the City's power to establish procedures for claims against it, it may prevent significant liabilities and therefore have a beneficial fiscal impact.

Attachment - Amended Claiming Ordinance

c: Bob Richardson, City Manager  
Andy Heath, Director of Administrative Services

ORDINANCE NO. 12-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN AMENDING  
THE AUBURN MUNICIPAL CODE REGARDING CLAIMS AGAINST THE CITY

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THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS FOLLOWS

Section 1. Code Amendment. Section 33.115, Subsection (A) of the Auburn  
Municipal Code is hereby amended to read as follows:

“(A) Authority

This ordinance is enacted pursuant to the city’s authority under the  
Constitution and laws of the state of California, including but not limited to  
California Constitution article XI, sections 7 and 9, and sections 935 and  
37100.5 of the California Government Code.”

Section 2. Code Amendment. Section 33.115, Subsection (C) of the Auburn  
Municipal Code is hereby amended to read as follows:

“(C) Form of Claim

All claims shall be made in writing and verified by the claimant or by his  
or her guardian, conservator, executor or administrator. In addition, all claims  
shall contain the information required by California Government Code Section  
910. The foregoing reference to Government Code Section 910 shall not be  
construed to authorize a class claim or a representative claim, and no claim  
may be filed on behalf of another person or a class of persons unless verified  
by such other person(s) and each member of any purported class.”

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. Construction. To the extent the provisions of the Auburn Municipal Code as amended by this Ordinance are substantially the same as previous provisions of that Code, they shall be construed as continuations of those prior provisions and not as new enactments. The provisions of this Ordinance are intended to be declaratory of existing law.

Section 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED AND ADOPTED, this TBD<sup>th</sup> day of June 2012.

Kevin Hanley, Mayor

ATTEST:

Joseph G. R. Labrie, City Clerk

1 I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify  
2 that the foregoing ordinance was duly passed at a regular meeting of the City  
3 Council of the City of Auburn held on the TBD<sup>th</sup> day of June, 2012 by the  
following vote on roll call:

4 Ayes:

5 Noes:

6 Absent:

7 \_\_\_\_\_  
Joseph G. R. Labrie, City Clerk

8  
9 APPROVED AS TO FORM:

10  
11  
12 \_\_\_\_\_  
13 Michael G. Colantuono, City Attorney

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